IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Crl.Rev.Pet.No. 897 of 2000(C)

CC.288/1997 of JUDL. MAGISTRATE OF FIRST CLASS-II, HOSDRUG

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REVN. PETITIONER:

P.KUNHAMBU NAIR,
S/O.K.KUNHAMBU NAIR,
MARANKAVU, PERIYA VILLAGE,
P.O.PERIYA, HOSDURG TALUK,
KASARAGOD DISTRICT.

BY ADV. SRI.KODOTH SREEDHARAN

RESPONDENTS:
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1. A.DAMODARAN NAIR,
S/O.KUMHAMBU NAIR,
ADUKKADUKKAM,
PERIYA VILLAGE.

2. STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE,
BEKAL POLICE STATION,
REPRESENTED THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.M.RAMESH CHANDER
PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.R.P.No.897/2000(C)

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Dated this the 2nd day of July, 2007

O R D E R

The revision petitioner is the de facto complainant in C.C.No.288/1997 in the file of the Judicial Magistrate of the First Class Court-II, Hosdurg, with respect to the offences under Sections 324 and 506(ii) of the Indian Penal Code.

2. It is the prosecution case that on 07/11/1996, at about 5.45 p.m., the accused, caused hurt to the de facto complainant hitting with a gun on his head and also intimidated him that he will be done to death aiming the gun. The evidence adduced consisted of the testimony of PWs.1 to 8, Exts.P1 to P5 and MO.1 gun.

3. It is contended by the counsel for the revision petitioner that the court below has not considered the evidence at all and has just dismissed the complaint, mentioning that the prosecution has miserably failed to prove the case beyond any

shadow of doubt and that MO.1 could not be identified by PWs.2 to 4.

I find that the court below has not discharged judicial function vested upon him properly. There is no discussion of the evidence. There is no other go but to set aside the order of the court below. The court below is directed to reconsider the evidence adduced in the matter and dispose of the case afresh after hearing both sides. The matter is remitted back to the court below. The parties shall appear before the court below on 08/08/2007.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.897/2000(C)

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O R D E R

2nd July, 2007